R-5256

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SIGMA RELOCATION GROUP, LLC   :
D/B/A UMOVEFREE.COM,   :
                               :
              Opposer,   :   Consolidated Proceeding:
                               :
v.   :   Opposition No. 91/170,390
                               :   Cancellation No. 92/044,61[?]
MOVEFORFREE.COM, INC.,   :
                               :
              Applicant.   :

MOVEFORFREE.COM, INC.'S REPLY TO PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO COMPEL DISCOVERY AND REQUEST FOR SUSPENSION

Registrant/Applicant, MOVEFORFREE.COM, INC. (hereinafter "Registrant"), files this MOVEFORFREE.COM, INC.'S REPLY TO PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO COMPEL DISCOVERY AND REQUEST FOR SUSPENSION (hereinafter the "Reply"), on grounds that Petitioner/Opposer Sigma Relocation Group, LLC d/b/a Umovefree.com (hereinafter "Petitioner") has failed to adequately respond to Registrant's Motion to Compel Responses to Discovery and Request for Suspension (hereinafter "Registrant's Motion to Compel"), or even address the issues raised by Registrant's Motion to Compel, and requests that the Board grant Registrant's Motion to Compel, in full, for the reasons discussed below.

Petitioner's Response to Registrant's Motion to Compel

Discovery and Request for Suspension (hereinafter "Petitioner's

Response") provides no legal argument for Petitioner's position.

Petitioner claims to have responded to Registrant's discovery

requests, and reaches the conclusion that Registrant's Motion is

therefore moot. However, Petitioner's Supplemental Responses

(Petitioner's Response, Exhibit A) do not comply with the issues

raised in Registrant's Motion, and do not, at this time, excuse

Petitioner for its conduct in this proceeding.

Petitioner has failed to present any argument or legal

authority for its inadequate responses to Opposer's discovery

requests. Rather than providing some legal justification for

the inadequate responses, Petitioner merely asserts the

conclusion that "its objections to MFF's discovery requests were

appropriate and with merit." (Petitioner's Response, p.2.)

Further, with respect to the admissions, Petitioner states,

"Sigma's responses to MFF's requests for admissions are

appropriate as they stand presented." (Petitioner's Response,

p.2.) Petitioner has provided no explanation, or support for

these conclusions. Petitioner has provided no argument against

or rebuttal for the detailed Motion to Compel filed by

Registrant. In fact, Petitioner has failed to even address the

issues raised by Registrant in Registrant's Motion to Compel. Such action is tantamount to an admission that Registrant's Motion to Compel is well taken, and should result in the granting of Registrant's Motion to Compel in full.

Petitioner has also asserted that Registrant's Motion to Compel is moot, because Petitioner has served Supplemental Responses to Registrant's discovery requests. ("As such, MFF's Motion to Compel now stands moot." Petitioner's Response, p.2.) However, Petitioner's Supplemental Responses do not excuse Petitioner's initial failure to comply with Petitioner's discovery obligations, or address the continued inappropriate objections to Registrant's discovery requests. In certain instances (such as Interrogatory No. 3, Interrogatory No. 7 and Interrogatory No. 9), Petitioner has continued to assert the same improper objections as outlined in Registrant's Motion to Compel. Petitioner has also failed to serve Supplemental Responses to Registrant's Request for Admissions. Accordingly, Registrant's Motion to Compel is not moot, and an order from the Board is required to resolve the discovery issues still outstanding in this case.

Petitioner has also asserted that Petitioner's actions in this case are justified by Petitioner's claims that Opposer has engaged in "dilatory conduct in the consolidated proceedings."

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(Petitioner's Response, p.3.) Aside from the fact that this claim is irrelevant to Registrant's Motion to Compel, Petitioner's position is not well taken. Registrant has diligently moved through this proceeding, focusing on the narrow issues raised by Petitioner's Petition to Cancel and Opposition. At certain times Registrant has required additional time to serve and file documents, and has followed the Board's procedure to obtain extensions, all of which have been granted by the Board. In contrast, Petitioner, as outlined in detail in Registrant's Motion to Compel, has delayed this proceeding by failing to fulfill Petitioner's discovery obligations. Registrant, following the Board's procedures, contacted Petitioner with a four page letter outlining Petitioner's deficiencies in discovery. Petitioner failed to even address Registrant's letter. Registrant was then forced to file a fifteen page Motion to Compel, to explain all of Petitioner's deficiencies in discovery. Petitioner's Response does not even address the Motion to Compel. It is clear that Petitioner is abusing the discovery process, by failing to fulfill Petitioner's discovery obligations, failing to address Registrant's letter outlining Petitioner's deficiencies in discovery, forcing Registrant to file a Motion to Compel, failing to submit any argument or legal authority in support of

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Petitioner's Response to Registrant's Motion to Compel, serving

Supplemental Responses which do not resolve the issues raised in

Registrant's Motion to Compel and then stating the conclusion

that Registrant's Motion to Compel is moot, despite all of the

actions discussed in this sentence. Petitioner's actions are

completely contrary to the expectations the Board places on

practitioners, and have had the expected result of unnecessarily

delaying this proceeding. See, 37 C.F.R. §2.120(e)(2).

Finally, although this is also not relevant to Registrant's

Motion to Compel, Registrant feels compelled to respond to

Petitioner's claims that Registrant has submitted "almost

identical objections to Sigma's discovery requests."

(Petitioner's Response, p.3.) Registrant's objections are in no

way similar to Petitioner's objections. Registrant's objections

are valid, and are in direct response to Petitioner's

substantial discovery requests, many of which seek information

wholly irrelevant to this consolidated proceeding. A brief

review of Petitioner's discovery requests, which are included in

Exhibit B of Petitioner's Response, shows that Petitioner's

requests are attempting to require responses and information

well beyond those set forth in the Federal Rules of Civil

Procedure, the Board's Rules, and the issues in this proceeding.

Shortly after filing the opposition, Petitioner filed even more

discovery requests, not only reiterating the overly burdensome demands of the original discovery requests, but adding new requests which are also irrelevant to this proceeding. In contrast, Registrant's discovery requests have been extremely limited, and directed solely to the issues concerning genericness and descriptiveness, and the claims raised by Petitioner in the Petition to Cancel and the Opposition. Regardless, as with all other actions in connection with the discovery, Petitioner has failed to even explain its position.

Based upon the foregoing, it is clear that Petitioner has engaged in improper conduct in connection with this case, and is using the discovery process to harass Registrant, delay this proceeding, and waste the valuable resources of Registrant, Registrant's counsel, and the Board. Registrant submits that Petitioner's actions merit not only the granting of Registrant's Motion to Compel, in full, but a strong sanction against Petitioner for such conduct.

Respectfully submitted,
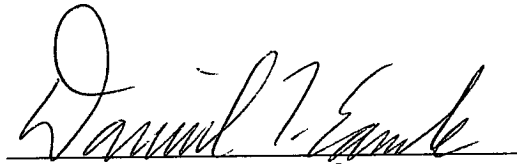MOVEFORFREE.COM, INC.

Date: _August 8 2006_   By: _____

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CERTIFICATE OF SERVICE

It is hereby certified that this MOVEFORFREE.COM, INC.'S REPLY TO PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO COMPEL DISCOVERY AND REQUEST FOR SUSPENSION has been served upon Opposer by mailing a copy thereof by prepaid first class mail to Scott L. Harper, Counsel for Opposer, Carstens & Cahoon, LLP, 13760 Noel Road, Suite 900, Dallas, Texas 75240, this 8th day of August, 2006.

Daniel T. Earle